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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/041,752	01/07/2002	Deborah A. Dixon	4103/1	3202

29858 7590 12/18/2006
THELEN REID BROWN RAYSMAN & STEINER LLP
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NEW YORK, NY 10022

EXAMINER

KESACK, DANIEL

ART UNIT	PAPER NUMBER
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3691

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/18/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/041,752	Applicant(s) DIXON ET AL.	
	Examiner Dan Kesack	Art Unit 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Amendment entered with the filing of RCE on September 11, 2006 has been fully considered. Claims 13-34 are currently pending. The rejections are as stated below.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/11/2006 has been entered.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claim 20 remains rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, as cited in the previous Office Action.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 13-30 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Department of Labor and Workforce Development, Unemployment Insurance, hereinafter, *Insurance* in view of Burgess, U.S. Patent No. 5,966,693.

Claims 13, 29, 31, 32, *Insurance* teaches the amended claim language "consumer", as cited in the response to Applicant's arguments, below.

7. Claims 31-34 remain rejected under 35 U.S.C. 103(a) as being unpatentable over *Insurance* in view of Burgess, and further in view of Ando et al., U.S. Patent Application Publication No. 2002/013717, as cited in the previous Office Action.

Response to Arguments

8. Applicant's arguments filed 9/11/2006 have been fully considered but they are not persuasive.

Regarding claim 20, Applicant argues that the term "healthy financial practices" is definite at least because Examiner has acknowledged that the phrase is old and well known in the business of insurance, and because the term is described in the application specification in such a manner as to teach one of ordinary skill in the art of financial management such practices. Examiner respectfully disagrees. While Examiner is of the opinion that the prior art teaches something which may be interpreted as a "healthy financial practice", the term is nevertheless indefinite, and the interpretation has been made for the purposes of applying the closest art possible. Aside from the application of prior art, Examiner has not acknowledged that the phrase is old and well known. Furthermore, Applicant's specification (page 13 lines 11-20) cites *examples* of "healthy financial practices" which include "savings exceeding a particular benchmark", making "the necessary funds transfer for n consecutive months" and "filing insurance claims costing less than the benchmark cost of insurance claims." As such, Examiner submits that Applicant's specification does not help to clearly define the scope of the term. Examiner acknowledges that having savings exceeding a particular benchmark may be understood as a "healthy financial practice," as it is well known in the art that saving money is a financial practice that is beneficial to a

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consumer. However, one may contend that saving money in the manner of the claimed invention is not a “healthy practice” as the money may be saved in another, more beneficial manner. Also, as previously cited, savings and investment strategies deemed “healthy practices” may change overtime. It is further submitted that one of ordinary skill in the art would not understand how a consumer filing insurance claims below a certain benchmark is a “healthy financial practice” by the consumer, and, for example, one of ordinary skill in the art would not consider a particularly unlucky consumer who is forced to file an above average amount of insurance claims to be maintaining unhealthy financial practices. For these reasons, the term is deemed indefinite and the rejection stands as previously cited.

Regarding claim 13, Applicant argues that the cited references do not teach each and every limitation of the claimed invention. Examiner respectfully disagrees.

Insurance teaches allocating a first portion of funds to a defined unemployment vehicle based at least in part on employment data of a consumer, as cited, wherein the employer offering the unemployment insurance to employees is a consumer, and the “experience of the employer’s industry grouping,” including benefit payout rates made to the employer’s terminated employees, are considered employment data of the consumer. As such, *Insurance* teaches this data is used to calculate the amount of premium paid out by the consumer, and the amount of the premium may be adjusted as the data changes.

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Burgess teaches the elements of the present invention which *Insurance* fails to teach. Specifically, in the citations previous provided (column 2 lines 36-37), Burgess teaches paying a premium for insurance coverage, wherein the premium may change as experience data related to the insurance coverage changes, and wherein any amount paid over the premium, as a result of a reduction in premium charges for example, is saved in an interest bearing account. If a premium continues to decrease due to changes in experience data, one can appreciate that portion paid toward the insurance product and the portion saved will change. For these reasons, the rejection stands as cited in the previous Office Action.

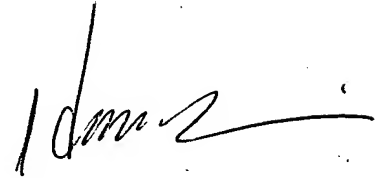
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Kesack whose telephone number is 571-272-5882. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



HANI M. KAZIMI
PRIMARY EXAMINER